

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GARY DAY,

Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

ORDER

15-cv-214-jdp

Plaintiff Gary Day, through his attorney Dana Duncan, moves the court for an order awarding attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. Dkt. 13. Plaintiff seeks \$4,275.24, in full satisfaction of any claim for fees and costs in this case. The Commissioner does not oppose the motion, and the parties agree that the court may assign the award to Attorney Duncan. Dkt. 18.

EAJA fees belong to plaintiff as the prevailing party, not to his attorney. *See Astrue v. Ratliff*, 560 U.S. 586 (2010). Accordingly, the EAJA award is subject to offset, to satisfy any pre-existing debt that plaintiff may owe the United States. *Id.* Provided that the award is offset to satisfy any pre-existing debt, the prevailing party may assign the fee award directly to his attorney. *See Mathews-Sheets v. Astrue*, 653 F.3d 560, 565 (7th Cir. 2011), *overruled on other grounds by Sprinkle v. Colvin*, 777 F.3d 421 (7th Cir. 2015).

After entry of this order, if counsel for the parties can verify that plaintiff owes no pre-existing debt subject to offset, then the Commissioner will direct that \$4,275.24 be paid to Dana Duncan pursuant to the EAJA assignment signed by plaintiff and his counsel. Dkt. 14.

ORDER

IT IS ORDERED that plaintiff Gary Day's motion for attorney fees in the amount of \$4,275.24, Dkt. 13, is GRANTED.

Entered: December 3, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge